

REMARKS

Claims 1-24 are currently pending; claims 5, 8, 13-15 and 20 have been amended; claims 21-24 have been added.

Claim Amendments

Claims 5 and 13-15 have been amended to recite that the material of which the sample chamber is made is a polymer, wood, glass, or a metal with $0.999 < \mu_r < 1.001$. The exemplary polymers (Delrin, POM, polyvinyl chloride, Teflon, polyamide, polyacetal, polyethylene, polycarbonate, polystyrene, polypropylene) are now presented in new dependent claims 21-24.

Claims 8 and 20 have been amended to recite that the process comprises utilization of a device to detect chemical substances selected from the group consisting of proteins, hormones, complement factors, bacteria, cells, viruses, fungi, yeast, spores, phages, cells, cell organelles, DNA, and RNA.

Entry and consideration of the claim amendments is respectfully requested.

Election

The Office has required Applicant to elect for further examination a species from List I and a species from List II. Applicant traverses this requirement. Applicant elects, with traverse, elect **Delrin from List I** and **Proteins/Complement Factors from List II**. Applicants assert that claims 1-24 read on the elected species.

The restriction is traversed. Applicants respectfully note that during review by the International Searching Authority (ISA), the claims of the PCT application did not receive a lack of unity rejection. Because unity of invention was found for the PCT

application under PCT Rule 13, Applicants submit that the current restriction requirement is improper.

In Caterpillar Tractor Co. v. Commissioner of Patents and Trademarks, 231 U.S.P.Q. 590, 590-1 (E.D. Va 1986), the Court held that a restriction requirement of claims found to have unity runs afoul of Article 27. Article 27 provides in part:

(1) No national law shall require compliance with requirements relating to the form or contents of the international application different from or additional to those which are provided for in this Treaty and the Regulations.

Thus, analogous to the facts of Caterpillar, as this application was filed under 35 U.S.C. §371 and the claims were found to have unity by the International Searching Authority, the U.S. Patent and Trademark Office cannot not now require a restriction. Requiring a restriction would run afoul of Article 27. Accordingly, Applicants request that claims 1-24 being examined at this time.

Further, Applicants assert that the subject matter of all claims is closely related, and thus it would not be a serious burden on the Examiner to examine the complete subject matter of the claims together. In light of the close relationship between the subject matter of all claims, it is believed that a complete search for the subject matter disclosed in all the claims would overlap. Thus, it would not be a serious burden on the Examiner to examine all the matter disclosed in the claims at this time. Therefore, withdrawal of the restriction requirement and favorable consideration of all the claims of record on the merits are respectfully requested.

Applicants believe that the foregoing is fully responsive to the outstanding Official Action including the restriction and the election of species requirement. If, however, the Examiner believes that any further information or election is required,

the Examiner is encouraged to contact applicants' attorney at the number provided below. Such informal communication will expedite examination and disposition of the case.

The Director is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17 and 1.20(d) and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

A handwritten signature in black ink that reads "T.D. Boone". The signature is stylized, with the first letters of the first and last names being capitalized and prominent.

Date: 30 April 2010

By: _____

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